

DEPARTMENT OF STATE REVENUE

AUDIT-GRAM NUMBER IR-014

February 28, 2006

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ISSUE: Consolidated Return - Membership

Authority: IC 6-3-4-14; 45 IAC 3.1-1-111; IRC § 1502 and IRC § 1504; Treas. Reg. § 1.1502-75

IC 6-3-4-14. Consolidated returns.

(a) An affiliated group of corporations shall have the privilege of making a consolidated return... The making of a consolidated return shall be upon the condition that all corporations... consent to all of the provisions of this section including all provisions of the consolidated return regulations prescribed pursuant to Section 1502 of the Internal Revenue Code... prior to the last day prescribed by law for the filing of such return. The making of a consolidated return shall be considered as such consent and

(b) [T]he term "affiliated group" shall mean an "affiliated group" as defined in Section 1504 of the Internal Revenue Code with the exception that the affiliated group shall not include any corporation which does not have adjusted gross income derived from sources within the state of Indiana.

[1980]

I. GENERAL STATEMENT

A group of Indiana taxpayers may file an Indiana consolidated Adjusted Gross Income Tax return under the following conditions:

- A. all members must be corporations;
- B. all members must be affiliated as defined in IRC § 1504;
- C. all members must have Indiana Adjusted Gross Income at some time during the tax year;
- D. all affiliated members must consent [FN 1] to abide by the provisions of,
 - 1. IRC §1502 [FN 2],
 - 2. IC 6-3-4-14, and
 - 3. all regulations promulgated for either law; and
- E. the consolidated return must be filed by the due date [FN 3].

II. INCLUSION OF AFFILIATED MEMBERS IN INDIANA CONSOLIDATED RETURN

A. Initial Consolidated Return – The initial consolidated return must include all Indiana affiliated members.

- 1. If an Indiana affiliated member failed to file a return in Indiana, the member will be included in an amended Indiana consolidated return.
- 2. If an Indiana affiliated member filed a separate return in Indiana, the member will be included in an amended Indiana consolidated return.

B. Years Subsequent to the Initial Consolidated Return Filing.

1. All affiliated members of the initial consolidated return must continue to file as members of the consolidated return, provided each continues to have Indiana income.

2. An Indiana taxpayer becoming a member of the affiliated group at any time after the group has filed its initial consolidated return will be deemed to be a member of all consolidated returns filed after such affiliation regardless of the new member's failure to have filed in Indiana or, if filed, the method of such filing.

III. PERMISSION TO FILE OR TERMINATE FILING CONSOLIDATED RETURN

A. Permission to begin filing a consolidated Indiana Adjusted Gross Income Tax return is not required, provided the initial consolidated return is filed by the due date.

B. Permission to discontinue filing a consolidated Indiana Adjusted Gross Income Tax return must be requested from the Department.

[FN 1] The filing of the Indiana consolidated return is deemed to be consent by all affiliated Indiana members.

[FN 2] Filing a consolidated Indiana return is not conditioned upon the filing a consolidated Federal return.

[FN 3] IC 6-8.1-1-4. "Due date" defined.